

March 20, 2020

RLS Guide to Benefits for Income Loss Due to COVID-19

During this time of great concern for our physical health and well-being, the COVID-19 pandemic also poses a threat to the financial health and stability of employees. While many are already being proactive and taking steps to protect their physical health, it is important to prepare yourself for the possibility of reduced hours and lost income caused by an exposure to COVID-19 or governmental efforts to contain the virus by restricting operations. Almost nothing can be considered normal for the foreseeable future, including the certainty of consistent income for the duration of the COVID-19 pandemic.

We are very much aware of the financial anxiety caused by COVID-19. For that reason, we are working diligently to identify potential sources of income for our clients and their families who are, or may be, affected by COVID-19.

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WORKERS' COMPENSATION

Employees who are exposed to COVID-19 through work and ultimately contract the disease should file a workers' compensation claim. We anticipate that some employers will dispute the work-related cause of the exposure, so the more employees are able to document the work-related source the better. Once a claim is accepted (not a given), injured workers become eligible for workers' compensation benefits.

Such benefits include medical care for the illness and paid leave commonly referred to as temporary disability payments for non-public safety employees. Temporary disability payments are equal to two-thirds of the employee's salary (tax free) with a statutory cap of \$1,299.43 per week (2020 limit). Temporary disability payments are available after employees are off work

for 3 days and up to a total of 104 weeks. Public safety employees (most sworn law enforcement personnel and firefighters) are entitled to enhanced benefits pursuant to Labor Code section 4850. Section 4850 provides public safety employees with the continuation of full salary for up to a full year, after which employees are also eligible for 52 weeks of temporary disability benefits. To receive these workers' compensation benefits employees must provide medical documentation substantiating the employee's inability to work in their regular capacity or that the employee can only work in a modified capacity for which the employer is unable to accommodate. These benefits cease once an employee's doctor indicates that the illness has improved to the point of maximum medical improvement.

Our primary concerns with COVID-19 exposures and illnesses are: 1) the potential difficulty with proving that an employee contracted the illness from a work-related exposure with "medical certainty", and 2) exposure alone (without a technical "injury" or symptoms) that results in missed work due to quarantine may not be immediately accepted or treated as a work-related injury. Though public safety employees are clearly at higher risk for contracting COVID-19 than most other employees, some employers nonetheless may take the position that exposures were not work-related (at least in the short-run) even though a work-related exposure is very likely.

We anticipate employers will react differently, with some accepting claims without question and others refusing to recognize the heightened risk to first responders. We encourage employees to contact us if they have concerns or encounter resistance from their employers so that we may help guide you through this process.

DOCUMENTING EXPOSURE

We encourage employees to fully document any and all suspected or actual COVID-19 exposures with their employers. This includes documenting the circumstances and the identities of individuals who are suspected to have COVID-19, as well as any individuals who witnessed the exposure.

ALTERNATE SOURCES OF BENEFITS

There are other potential sources of compensation beyond workers' compensation benefits that employees affected by COVID-19 may be able to access. The extent to which any employee may qualify for such benefits depends on a variety of factors. Given the various eligibility requirements, we cannot represent that any employee is necessarily entitled to these benefits. However, we hope the information provided may guide some individuals to income sources that can mitigate the adverse impacts of a COVID-19 exposure or illness.

LONG AND SHORT-TERM PRIVATE DISABILITY BENEFITS

Employees may be covered by long and/or short-term disability insurance plans provided by their employers or as a result of union membership. We recommend that employees contact their employers or union representatives to determine if they are covered by short and/or long-term disability plans, including those offered by:

- PORAC
- CLEA
- AFLAC
- Standard Insurance
- Other sources (ask your union what may be available)

For employees who have such coverage, they should contact the insurance provider to determine:

- The type of coverage
- The amount of coverage provided
- The length of time the coverage will last
- How to start the application process
- What documentation is required to initiate and maintain the coverage

DISABILITY INSURANCE

Short-term disability insurance (State Disability Insurance/SDI) is available to **eligible** workers through the State of California's Employment Development Department (EDD). These payments are only available to employees who qualify by having paid into the program through their employment. SDI benefits are:

- Available for **full or partial loss** of income due to COVID-19 related illness or quarantine.
- Approximately 60-70% of an employee's wages are covered depending on the employee's income.
 - The level and duration of SDI payments are determined by amount paid into SDI by the employee over time.
- The one-week unpaid waiting period for SDI and benefits is waived by Governor Newsom's executive order, allowing benefits for the first week people are out of work.

We **encourage employees to contact EDD immediately to determine their right to SDI benefits**. This should be done regardless of whether you are currently in need of benefits or might need benefits in the future.

[Disability Insurance Claim](#)

UNEMPLOYMENT INSURANCE

Unemployment Insurance is also available to employees through the EDD.

- Unemployment benefits are available for **full or partial income loss** due to COVID-19 related circumstances, including work hours that are missed because of the need to care for children whose schools are closed due to COVID-19.
- Unemployment insurance provides benefits from \$50 to \$450 per week for up to 26 weeks.

- The one-week unpaid waiting period for Unemployment Insurance and benefits is waived by Governor Newsom's executive order, allowing benefits for the first week people are out of work.

Unemployment Insurance Claim

FAMILY LEAVE/CAREGIVING

Employees who are **unable to work** because they are caring for an ill or quarantined family member with COVID-19 (certified by a medical professional) are entitled to leave from work.

California provides Paid Family Leave for:

- **Full or partial loss** of wages resulting from a qualifying event.
- Up to 60-70% of an employee's wages (from \$50 to \$1,300 per week) for up to 6 weeks.

Paid Family Leave Claim

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

On March 18, Congress passed the *Families First Coronavirus Response Act and Emergency Sick Leave Act*. President Trump signed the law which goes into effect on April 2, 2020.

This Act expands the Family Medical Leave Act and the right to paid sick leave benefits under specified circumstances arising from the COVID-19 pandemic. These new laws apply to employers with 50 to 500 employees. However, public safety employees can and likely will be exempted from the expanded leave provisions.

WE ARE OPEN

Our offices remain open at this point with the specific goal of providing information on these and other issues, to assist in filing these claims, and to make sure that our clients, their families and their friends are protected to the fullest extent.

RLS Workers' Compensation

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NOTICE: Making a false or fraudulent workers' compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.